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Lettre datée du 18 novembre 2002, adressée au Président du Conseil de sécurité par le Secrétaire général

Je me réfère à l'aide-mémoire du Gouvernement de la Papouasie-Nouvelle-Guinée en date du 26 août 2002 et à la lettre du Ministre des affaires étrangères de la Papouasie-Nouvelle-Guinée, M. Rabie Namaliu, en date du 28 août 2002 (voir annexes)*, qui m'ont été adressées en vue de fournir des informations sur le rôle du Bureau politique des Nations Unies à Bougainville et de demander une prorogation de son mandat pour une nouvelle période d'un an.

Au cours de l'année écoulée, des progrès soutenus ont été réalisés dans l'application de l'Accord de paix de Bougainville. Le processus de paix devrait être mené à terme au cours de l'année prochaine. Le Bureau politique des Nations Unies à Bougainville a joué un rôle déterminant dans l'application de l'Accord de paix de Bougainville et toutes les parties s'accordent à reconnaître le caractère indispensable de sa présence continue sur l'île, ce qui a été réaffirmé à la réunion du Comité consultatif du processus de paix tenue à Arawa le 30 octobre 2002.

J'ai donc l'intention de proroger le mandat du Bureau, qui arrive à expiration le 31 décembre 2002, pour une nouvelle période de 12 mois afin d'aider les parties à mener à bonne fin le processus de paix.

(*Signé*) Kofi **Annan**

* Les annexes sont distribuées uniquement dans la langue de l'original.

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Annex I

Aide-mémoire on recent developments and future needs relevant to the role of the United Nations Political Office/Observer Mission in the peace process in Bougainville, Papua New Guinea (UNPOB/UNOMB)

(26 August 2002)

Introduction

1. Since the signing of the *Bougainville Peace Agreement* on 30 August 2001, the attention and activities of all of the parties involved in the peace process in Bougainville, Papua New Guinea, have focused on the issues involved in practical peace-building.

2. Considerable progress has been made – and continues – towards the return of normalcy in Bougainville, though challenges still remain.

3. Noteworthy achievements so far during 2002 include:

   - certification of the Constitutional Laws to give legal effect to the *Bougainville Peace Agreement* – so that the new Part XIV of the *Papua New Guinea Constitution* and the new *Organic Law on Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum* now form part of the laws of Papua New Guinea;

- the issuing and entry into effect of the declaration granting immunity from prosecution for crisis-related offences on all sides, as provided in the *Lincoln Agreement on Peace, Security and Development on Bougainville*, 1998, and jointly prepared by the parties ;

- continuing implementation of the agreed weapons disposal plan included in the *Bougainville Peace Agreement* – on which the operation of the Constituional provisions on autonomy and the guarantee of a referendum among Bougainvilleans on Bougainville's political future depends;

- agreement by the Bougainville parties to a timetable for preparing and adopting the Bougainville Constitution, then holding elections, for the autonomous Bougainville Government; and

- ongoing progress in other areas of peace-building, including reconciliation, as well as restoration and development of services and economic opportunities on the ground.

4. In addition to playing an important role in carrying out specific elements of the agreed weapons disposal plan – and thereby preparing the groundwork for the new Part XIV of the National *Constitution* and the new Organic Law to become fully operational – UNPOB (which is known on the ground as 'UNOMB') has continued to provide valuable support for peace-building in Bougainville both by chairing the Peace Process Consultative Committee (PPCC), which facilitates consultation and co-operation between the parties, and in other ways.

5. Though the peace process still has some way to go – and UNPOB / UNOMB has further important contributions to make – the record so far suggests that UNPOB / UNOMB is among the more successful instances of United Nations' support for post-conflict peace-building, and should be allowed to continue until its agreed tasks are completed.

Implementation of the *Bougainville Peace Agreement*

(i) Key elements and their links

6. The *Bougainville Peace Agreement* provides for -

- the phased establishment of a democratic, autonomous Bougainville Government with its own Constitution, and able to draw down and exercise a wide range of guaranteed powers and functions, including access to funds and control over staff, within the *Papua New Guinea Constitution*;

- a deferred and conditional referendum among Bougainvilleans on Bougainville's political future - in 10-15 years, when weapons disposal and good governance have been achieved – with a separate independence for Bougainville as an option, and the outcome subject to the final decision-making authority of the National Parliament; and

- a weapons disposal plan, which proceeds in stages from placing guns in locked trunks under the control of former BRA and BRF commanders (stage 1) to secure storage in central containers with double-locks – with UNOMB supervising and holding one of the keys (stage 2), and then a decision on the final fate of the weapons within a further 4½ months after the new Part XIV of the *Constitution* becomes operational (stage 3).

7. The new Part XIV of the *Papua New Guinea Constitution*, which gives legal effect to the *Bougainville Peace Agreement*, became part of the law of Papua New Guinea on 25 June.

8. The provisions on autonomy and the guarantee of a deferred and conditional referendum will become operational when UNPOB / UNOMB verifies and certifies that stage 2 of the agreed weapons disposal plan has been achieved:

- the process, which is specified in the *Constitution*, is automatic following UNOMB's report;

the Government does not have any discretion once UNOMB's report is formally submitted and received.

9. It is, therefore, critical that UNPOB / UNOMB should proceed on the basis of close consultation.

(ii) Immunity and Pardon

10. The grant of immunity from prosecution for Bougainville crisis - related offences on all sides was made under a provision in the new Part XIV of the *Constitution* which is already in force.

11. The declaration made by the Governor-General on 2 August provides for immunity from prosecution in respect of activities carried out -

- in pursuit of the objectives of parties involved in the Bougainville conflict, including giving orders and/or carrying-out activities in the course of the armed conflict or against a person believed to belong to or support one of the parties, or in self-defence, or for the sake of the community, public order or justice in situations where normal legal processes could not be applied - or where people could not obtain licences, lodge returns or meet other legal requirements because of the crisis,

- between the beginning of the crisis, 1 October 1988, and the signing of the *Bougainville Peace Agreement*, 30 August 2001 - with provision for certain regulatory, licensing and similar offences to be covered until normalcy returns and compliance becomes practicable.

12. The grant of immunity covers all offences against Papua New Guinea law, including the *Criminal Code* and the *Summary Offences Act* - with certain, very carefully specified exceptions:

- the exceptions for which immunity will not be granted include offences committed for such criminal purposes as personal enrichment or for the following offences against he *Criminal Code*: infanticide, killing unborn child, and

assaults on females (rape, indecent assault, abduction and attempts);

- **all other offences are covered, including preparation, conspiracy and accessories after the act, except for the regulatory, licensing and similar offences already mentioned.**

13. **Specific allowance has been made for the particular circumstances in which the agreed weapons disposal plan is being implemented – to encourage persons who illegally possess, own or control firearms to take part in the process; and to cover the commanders and officials involved.**

14. **Special protection is provided for persons who are – or fear they might be - charged with offences which they believe to be covered by the grant of immunity by –**

    - **providing that they can apply to a court for a declaration they are covered by the grant of immunity, and**

    - **requiring the prosecution to prove the case if it believes they are not.**

15. In respect of anyone who has been convicted of a Bougainville crisis -related offence, including anyone who has completed their punishment as well as anyone who might still be serving a sentence, the National Executive Council has agreed to –

    (1) inform the Advisory Committee on the Power of Mercy, which is an independent Constitutional body, of the immunity declaration, and

    (2) apply the same principles to the recommendations it receives from the Advisory Committee on applications for pardon and the removal of criminal records.

16. The terms of the grants on immunity and pardon are based on close consultation and agreement between the parties involved in the Bougainville peace process.

17. They have generally been favourably received by the Bougainville parties, and have helped to consolidate and reinforce the mutual confidence on which practical weapons disposal depends.

(iii) **Practical weapons disposal**

18. Implementation of the agreed weapons disposal plan is clearly critical – and directly linked – to the timely and orderly achievement of other objectives, including:

- UNOMB's verification which will bring the provisions on autonomy and the guarantee of a referendum in the new Part XIV of the *Constitution* and the *new Organic Law on Peace-Building in Bougainville* into full operation;
- the holding of elections for the autonomous Bougainville Government (the date agreed by the Bougainville parties is between 30 March and 30 June 2003);
- the successful conclusion of their assignments – and exit – by the neutral, regional Peace Monitoring Group and UNPOB / UNOMB; as well as
- restoration of civil authority; and
- other aspects of restoration and development.

19. UNPOB / UNOMB plays an important role in weapons disposal:

- as chair of the PPCC and its Weapons Disposal Committee (WDC), through which the parties manage implementation of the agreed plan; and
- directly, through the responsibilities given it at each of the three stages (forwarding advice from communities when they are ready to the PPCC at stage 1; supervising and holding one of the keys to the containers at stage 2; and verifying and certifying compliance at stage 3).

20. **Practical support and assistance in weapons disposal are provided by –**

- by other United Nations agencies – the United Nations Office for Project Services (UNOPS) in planning and management, and the United Nations Development Programme (UNDP) in respect of funds; and

- the neutral, regional Peace Monitoring Group (PMG), which is made up of approximately 75 unarmed military and civilian personnel from Australia, Fiji, New Zealand and Vanuatu – who can, in turn, draw on the expertise of a further 10 Australian personnel.

21. Rapid, significant progress was made in implementing the agreed weapons disposal plan between December 2001 and late March 2002, when the proposed Constitutional Laws to implement the *Bougainville Peace Agreement* were before the National Parliament, such that –

- most of Bougainville had been covered by Joint Awareness Teams (JATs), made up of National Government officials and representatives of the Bougainville parties, who toured and worked together to promote public awareness, understanding and support of the agreed weapons disposal plan;

- a total of more than 900 high-powered weapons had been put away, including more than 200 high-powered, factory-made guns – enough to convince the National Parliament to give strong, unanimous and unqualified support to the proposed Constitutional Laws; and

- weapons disposal ceremonies had occurred in every District of Bougainville and Buka islands.

22. The process has since slowed – both because of the sensitivities generally associated with weapons disposal, and because of distractions arising specifically from the national elections.

23. **As at 21 August:**

- **the total number of weapons put away stood at 1,513, including 288 high-powered, factory-made guns (the remainder are hunting and sporting, home-made or relics of World War II guns);**

- **580 of the weapons, including 140 high-powered guns, belong to the Bougainville Resistance Forces (BRF), and 933, including 148 high-powered guns, to the Bougainville Revolutionary Army (BRA) - at certain locations, members of the two armed factions have stored their weapons together; and**

- **of the 10 Districts in Bougainville, weapons disposal had proceeded beyond stage 1 to stage 2 in five cases (in Bana, Selau-Suir, Tinputz, Torokina and Wakunai), and to stage 3 in one (Siwai, where 117 weapons had been destroyed).**

24. **At a PPCC meeting in June, the parties agreed that:**

- **the end of August will be the date for concluding stage 1 of the agreed weapons disposal plan throughout Bougainville;**

- **the end of September should be the target-date for achieving stage 2 around the island.**

25. They also agreed to promote proper 'bottom-up' planning and more realistic budgeting for practical weapons disposal by involving the Co-Chairs of District Weapons Committees directly in the work of the PPCC / WDC, and to try to involve leaders more actively in weapons disposal.

26. In early July, UNPOB / UNOMB convened an Encounter on Weapons Disposal to promote and facilitate greater involvement in weapons disposal by Bougainville leaders.

27. **Meanwhile –**

- **the National Government and the Bougainville Administration have established the Bougainville Weapons Disposal Trust Account – to be used, along with funds provided to the UN by New Zealand the United Kingdom, to support practical weapons disposal (the Australian Government has also provided a number of vehicles excess to the PMG's requirements to assist with transportation);**

- **the Australian Government has provided A$5 million (= almost K10 million) to assist in re-integrating ex-combatants and communities – to be made available in response to applications after stage 1 of the agreed weapons disposal plan has been achieved; and**

- **a Combined Mission from the Department of Disarmament Affairs and the Department of Political Affairs, United Nations Secretariat, New York, visited Papua New Guinea in May to assess needs in relation to weapons disposal (its report is currently under consideration).**

28. Further, early progress is expected as a result of agreement to involve the Co-Chairs of District Weapons Disposal Committees in planning; the development of District-based weapons disposal plans; and the approval of guidelines and allocations for funding by the PPCC.

29. Discussions are proceeding on the best way of assessing progress, especially when stage 2 has been achieved. Options include:

- the use of agreed quantitative benchmarks, with particular reference to numbers of high-powered, factory-made guns; and / or

- agreement that chiefs and women's groups will 'sign off' when they believe weapons disposal has been

achieved in individual communities, at District-level and Bougainville-wide.

In view of the important consequences that flow from its role in verifying and certifying the achievement of stage of the agreed weapons disposal plan, it is vital that UNPOB / UNOMB plays its agreed part on the basis of consultation.

(iv) <u>Timetable for progress towards establishment of the autonomous Bougainville Government</u>

30. **Bougainville leaders have met and agreed to the terms of reference and membership of the Bougainville Constitutional Commission, as well as a timetable for carrying out their part in preparing for the establishment of the autonomous Bougainville Government.**

31. **The Chairman of the Bougainville Constitutional Commission will be the President of the Bougainville People's Congress (BPC), Joseph Kabui, and his Deputy will be the Deputy Governor, Gerard Sinato.**

32. **They will be joined by a further 22 members (most of whom have yet to be named).**

33. Key dates in the agreed timetable are:

August – September 2002:	consultations by Bougainville Constitutional Commission
October – November:	report
September – October:	establishment of the Bougainville Constituent Assembly
November – December:	adoption of report and Bougainville Constitution
January – March 2003:	presentation of report and draft Bougainville Constitution to National Executive Council

	Electoral boundaries determination
30 March – 30 June:	**elections for autonomous Bougainville Government**

34. **The timetable is clearly very tight. It has, in fact, already slipped somewhat.**

35. **Meanwhile, the National Government is playing its part by gearing up to co-operate in preparing the joint implementation plans for Bougainville Government services (Public Service, Police and Correctional Services), as the *Bougainville Peace Agreement* provides.**

(v) Implications for UNOMB

36. **Because of its role in chairing the PPCC and the WDC, its specific role in giving effect to the agreed weapons disposal plan, and its wider contribution to building security and mutual confidence on the ground, UNPOB / UNOMB plays an important part in peace-building in Bougainville.**

37. The *Bougainville Peace Agreement* not only provides for UNPOB / UNOMB to continue playing an important part in weapons disposal up to (and including) stage 3 of the agreed plan – within 4 ½ months after stage 2 has been achieved, and the new Part XIV of the National *Constitution* and the new *Organic Law on Peace-Building in Bougainville* become fully operational; it also anticipates that:

- UNPOB / UNOMB 'may be needed for a short period' to conclude its assignment during implementation; and

- the likely exit-date for UNPOB / UNOMB will be 'around the middle and not later than the end of 2002' (Paragraph 330).

38. However, progress with practical weapons disposal and the timetable for establishment of the autonomous Bougainville Government clearly imply that UNPOB / UNOMB will not be able to complete its agreed assignment until, at earliest, the first half of 2003 – and, possibly, even later in the year.

39. In view of the very significant progress already made in one of the most successful (and modest) instances of United Nations support for post-conflict peace-building, it is vital that the United Nations recognizes the need to ensure that peace-building in Bougainville is not disrupted and momentum is maintained – by:

- giving early consideration to the likely need to continue UNPOB / UNOMB into 2003, and

- ensuring the availability of the human and financial resources required.

(vi) – <u>Progress and challenges in other areas</u>

40. Signs of returning normalcy additional to those discussed above include:

- the way in which Bougainvilleans seem increasingly willing - and, as infrastructure is repaired, and the economy picks up, able - to move around Bougainville, and to other parts of Papua New Guinea;

- the generally orderly way in which the 2002 general elections in Bougainville were held - with candidates previously aligned with all major parties nominating and campaigning peacefully;

- increasing economic activity, including cocoa and copra production;

- re-opening and upgrading of infrastructure and services; and

- **the reduction of the Defence Force presence to only about 24 personnel.**

However, law and order is coming under increasing challenge, and more needs to be done to restore civil authority (including police, courts and correctional institutions).

41. **Meanwhile, even though Francis Ona and the hard-core of his most militant supporters, including the Me'ekamui Defence Force (MDF), have remained outside the peace process, they have not disrupted it:**

- **recent attempts to expand the 'No-Go Zone' around Panguna appear to have been peacefully resolved; and**

- **contacts between elements of the MDF and the Bougainville parties, as well as the National Government, have been increasing – with members of the MDF re-organising themselves as the BRA's 'A Company' and attending the PPCC / WDC meetings in Buka in early July.**

42. **Other key challenges and priorities for early, sustained attention and action - additional to encouraging Francis Ona and his remaining supporters to lift the 'No-Go Zones' and participate actively in the peace process** - include:

- reconciliation, and the disbandment of previously conflicting groups;

- restoration of civil authority;

- re-integration of ex-combatants and communities, including youths who missed out on education and training during the crisis;

- repair, replacement, upgrading and provision of infrastructure;

- restoration of services; and

increased opportunities for participating in the benefits of development.

43. In addition to the National Government and the Bougainville Interim Provincial Government (which proceeds on the basis of consultations with the BPC), a number of foreign aid donors provide financial and other support for restoration and development in Bougainville, including Australia, the European Union, Japan, New Zealand, and UNDP.

<u>Conclusion</u>

44. Bearing in mind the United Nations' commitment to peace, its strong and impressive record of positive, sustained and successful support for peace-building in Bougainville, Papua New Guinea, and the obvious need to continue work already begun in order to secure lasting peace there, Papua New Guinea respectfully requests the United Nations - and the United Nations Security Council and the distinguished United Nations Secretary-General, in particular – to:

(1) take note of the information about the peace process in Bougainville, Papua New Guinea, provided above,

(2) agree, in principle, that UNOMB / UNPOB will continue to operate in Bougainville until it completes the mandate specified in the *Bougainville Peace Agreement*, as previously agreed; and, consequently,

(3) give support, and allocate resources, for UNOMB / UNPOB to continue –

(i) into 2003 – until its mandate is completed, and,

(ii) if required beyond 30 June, subject to review before the middle of 2003.

PERMANENT MISSION OF PAPUA NEW GUINEA TO THE UNITED NATIONS **26 AUGUST 2002**

Annex II

Letter dated 28 August 2002 from the Minister for Foreign Affairs of Papua New Guinea addressed to the Secretary-General

Extension of Mandate for the United Nations Political Office/Observer Mission in Bougainville, Papua New Guinea (UNPOB/UNOMB)

I have the honour to refer to the United Nations Political Office in Bougainville, Papua New Guinea - UNPOB, which is known on the ground as the 'United Nations Observer Mission in Bougainville – UNOMB', and the very positive role it plays in supporting the peace process in Bougainville, Papua New Guinea.

As the *Aide Memoire* of 26 August which my Government has already sent to the United Nations Secretariat, the Security Council and other United Nations members makes clear, UNPOB / UNOMB's contribution to peace-making and peace-building in Bougainville is especially important and valuable at the current, critical stage when it is actively engaged in co-ordinating implementation, promoting support and carrying out certain agreed responsibilities in relation to the agreed weapons disposal plan. These responsibilities include verifying and certifying when stage 2 of the plan has been achieved, at which point UNPOB / UNOMB will be responsible for supervising while holding one of two keys to each of the containers in which guns will be securely stored – and the agreed arrangements for autonomy and the guarantee of a referendum among Bougainvilleans on Bougainville's political future become operational.

In what may be world first for such a body, UNPOB / UNOMB's role is, in fact, specified in Constitutional Law (the *Constitutional Amendment on Peace-Building in Bougainville – Autonomous Bougainville Government and Bougainville Referendum*, Section 2).

It is, therefore, critical that UNPOB / UNOMB remains in existence and able to fulfil the mission to which the parties involved in the Bougainville peace process have all agreed, for which the United Nations has given strong, practical support, and for which our *Constitution* provides.

As you will recall, the *Bougainville Peace Agreement* (Paragraph 330) both forecast and encouraged the parties to proceed on the basis that UNPOB / UNOMB would be able to exit during the second half of this year (Paragraph .

While progress with weapons disposal and other aspects of peace-building has been good, it has not proceeded quite as fast or as far as originally hoped and predicted. The national elections and the sensitivities which are the almost invariable accompaniments of practical weapons disposal are among the contributing factors.

It is, therefore, now clear that stage 3 of the agreed weapons disposal plan, the decision on the final fate of the weapons (which the agreement specifies will be made within 4½ months after UNPOB / UNOMB verifies and certifies stage 2, and the Constitutional provisions on autonomy and referendum become operational) cannot be concluded before the end of this year.

The details are set out in Papua New Guinea's *Aide Memoire* of 26 August, which also makes clear that the autonomous Bougainville Government can be established and the guarantee of a referendum will become effective only when UNPOB / UNOMB reports that stage 2 of the agreed weapons disposal plan has been achieved.

Following on from the *Aide Memoire*, I now have the honour of forwarding Papua New Guinea's formal request seeking the United Nations' agreement to extend the mandate for UNPOB / UNOMB so that it can complete its previously agreed assignment.

Papua New Guinea, therefore, formally requests that:

(1) the information about the peace process in Bougainville, Papua New Guinea, provided in the *Aide Memoire* dated 26 August is noted; and

(2) the mandate for the United Nations Political Office / Observer Mission in Bougainville, Papua New Guinea, (UNPOB / UNOMB) be extended for up to a further twelve months (to the end of 2003), until the conclusion of its agreed assignment.

In conclusion, let me express Papua New Guinea's sincere appreciation for your own, the Secretariat's, the Security Council's and United Nations members' continuing support for what we pray will continue to be a successful joint venture in peace-building in order to secure lasting peace by peaceful means.

Respectfully yours,

RT HON. RABBIE L. NAMALIU, KCMG MP
MINISTER FOR FOREIGN AFFAIRS